DAVIES

155 Wellington Street West
Toronto, ON M5V 3J7 Canada

dwpv.com

February 16, 2025

BY EMAIL

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
The Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission of New Brunswick
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut
c/o

The Secretary
Ontario Securities Commission
Email: comments@osc.gov.on.ca

Me Philippe Lebel
Corporate Secretary and Executive Director, Legal Affairs
Autorité des marchés financiers
Email: consultation-en-cours@lautorite.qc.ca

Dear Sirs/Mesdames:

Re: CSA Notice of Republication and Request for Comment – Proposed Amendments and Proposed Changes to Implement an Access Model for Certain Continuous Disclosure Documents of Non-Investment Fund Reporting Issuers (the "Proposed Amendments")

We are writing in response to the request for comment on the Proposed Amendments.

We commend the Canadian Securities Administrators ("**CSA**") on its initiative to implement an access model to streamline non-investment fund reporting issuers' process of delivering financial statements and MD&A ("**CD Documents**") to investors. An access equals delivery model ("**CD AED**") is imperative in the age of digitization, when stakeholders primarily rely on the internet for access to information. However, we encourage CSA to reconsider the following procedural hurdles, which inhibit the success of this initiative, undermining the objectives of capital market efficiency and environmental consciousness without a proportional improvement to investors' interests. We believe that, as drafted, the Proposed Amendments may inadvertently magnify, rather than lessen, the administrative burden on

reporting issuers. Furthermore, we suggest modifying the Proposed Amendments to better align with current market practice.

1. Eliminate the Notice Requirement

Each reporting issuer is currently required to mail CD Documents or a paper request form to shareholders, together with its annual proxy-related materials or notice, if the issuer uses the notice and access regime. Section 4.5.3 of the Proposed Amendments replaces this request form with a different notification document (the "**Notification Document**"), with additional prescriptive criteria as to the format and content thereof. In effect, the Notification Document fulfills the same function and imposes the same burden on the issuer as the request form – no efficiency gains are achieved by the substitution of one for the other. However, the Proposed Amendments establish additional requirements: an obligation to replicate and post the Notification Document on the issuer's website, together with CD Documents, and issue a corresponding news release. Each of these requirements is a new obligation imposed on issuers under the Proposed Amendments.

We strongly suggest eliminating the mailed Notification Document requirement. The CSA does not provide the rationale for its inclusion, but we assume the objective is to simplify the process of accessing disclosure documents for the distinct, and we assume small, group of investors who lack internet access, do not invest through a broker and require copies of CD Documents. It is unclear how many Canadian investors fall within this niche category, since the CSA has not published the underlying research. We posit that receiving mailed CD Documents or notifications is no longer the expectation of Canadian investors. The availability of such documents on SEDAR+ and the issuers' websites is a widely accepted fact and is sufficient for the purposes of enabling access to an issuer's continuous disclosure. As CSA notes, "the most intuitive place for investors to look for information about an issuer is the issuer's website".

In the alternative, we urge CSA to replace the annual obligation to mail the Notification Document with the requirement to only send it in the first year of the issuer's adoption of CD AED. We see no reason to require an issuer to mail a Notification Document each reporting year. We see this requirement as an unnecessary procedural and environmental burden that does not meaningfully contribute to investor protection, since investors do not require an annual reminder from each reporting issuer of the availability of CD Documents on SEDAR+ and the issuer's website, particularly in light of the new requirement to disclose SEDAR+ automatic notification functionality.

2. Remove Unnecessary News Release for Opting Out of CD AED

We advise CSA to strike section 4.5.5 of the Proposed Amendments, which requires a reporting issuer to issue and file a news release titled "Ceasing to provide electronic access to documents" at least 25 days prior to filing CD Documents on SEDAR+. The section serves no clear function, since if the reporting issuer wishes to cease relying on CD AED regime, it by default reverts to sending the request form or a copy of CD Documents to investors. Therefore, there is no likelihood of investor confusion regarding how to obtain CD Documents if the reporting issuer switches back to the current regime without issuing and filing a news release to announce this fact.

In the alternative, we urge CSA to revise the drafting of section 4.5.5. We understand the intent of the provision is to provide notice that the reporting issuer is opting out of CD AED; however, as drafted, the section implies that the issuer is opting out of all public disclosure of CD Documents, which is incorrect. The reporting issuer continues to be subject to obligations to provide electronic access to documents by filing them on SEDAR+. The headline is misleading and can lead to confusion in the market. Corresponding changes to the language need to be made elsewhere in the prescribed notification.

3. Modify to Align With Market Practice

We suggest certain additional modifications to the CD AED regime, to better align with market practice and other market realities. For example, we suggest amending to the requirement to refer to CD AED in the title of the news release. To minimize the number of news releases, we expect that most reporting issuers would prefer to include the CD AED disclosure along with other information. However, most reporting issuers use the title of the news release to provide key information likely to have a material impact on the investor; it is market practice to include administrative changes and other nonessential information under a corresponding heading within the body of the news release. In this case, we anticipate reporting issuers will likely wish to include CD AED disclosure in their earnings releases, to avoid the additional cost and the risk of market disruption from an unexpected news release. The approach of combining disclosure of different nature within the same news release, however significant each piece of information is independently, is permitted under the current disclosure regime. There is no reason to deviate from this practice in connection with CD AED. The CSA should clarify that CD AED disclosure is not required to be made in a standalone news release, and disclosure under a corresponding heading is acceptable under the new legislation.

Furthermore, we suggest that CSA eliminate the requirement for all of the documents under CD AED be issued, filed or posted, as applicable, “on the same day”. An earnings release containing the prescribed CD AED disclosure might be issued on the day prior, or otherwise in advance of, the filing of CD Documents. The obligation to file both on the same day renders no benefit to the investor. On the other hand, it exposes reporting issuers to a risk of technological or administrative roadblocks, such as the unexpected unavailability of SEDAR+ functionality or other technological hurdles. We suggest a time frame which accommodates unexpected complications, reducing some of the unwarranted regulatory risk to reporting issuers.

****

The following lawyers at our firm participated in the preparation of this comment letter.

David Wilson	Robert Murphy	Yevgeniya Huggins
416.863.5517	416.863.5537	416.367.7511
dwilson@dwpv.com	rmurphy@dwpv.com	yhuggins@dwpv.com

Yours very truly,

DAVIES WARD PHILLIPS & VINEBERG LLP